

# SYNOPSIS AND INDEX

OF THE

# INSOLVENT ACT

OF 1875,

BY WILLIAM WILSON,

*Assistant Law Clerk, House of Commons.*

*(The numbers in the Index refer to the Sections and not to the Pages, so that it may be used for the Act, as printed separately or in the Statutes.)*

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INSOLVENT ACT

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CHAP. XVI.

An Act respecting Insolvency.

[Assented to 5th April, 1875.]

SYNOPSIS.

Section 1. Act to apply to Traders and Trading Companies, except Banks, Insurance, Railway and Telegraph Companies. Traders defined. Proceedings in Insolvency not to be based on any debt contracted after the trader has ceased to trade.

Section 2. Interpretation, County, District, Official Assignee, Assignee, Official Gazette, Court, Judge, Debtor, Insolvent, before Notaries, Creditor, and Collocated, defined.

Section 3. Debtor deemed insolvent,—if he acknowledges his insolvency, if, with intent to defraud his creditors, he absconds, secretes, fraudulently assigns, or connives at the seizure of his effects; if he is imprisoned for more than thirty days in an action for \$200 or more; if he fails to appear or to comply with any rule or order in respect of the payment of his debts; or if he has made any general assignment of his property otherwise than herein prescribed; or if he permits any execution to remain unsatisfied within a time fixed.

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Section 5. If the claims do not amount to \$500, or if the stoppage is only temporary, and without fraudulent intent, the Judge may annul the demand of assignment. Treble costs may be awarded, if demand has been made without reasonable grounds.

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Section 127. An insolvent imprisoned may apply to the Judge for his discharge; thereupon the Judge may examine the insolvent, or cause him to be examined.

If it appears to the Judge that the debtor has made an assignment, and that he has not been guilty of fraud, the Judge shall order his discharge; but seven days' notice must be previously given to the Plaintiff and to the Assignee.

Minutes of the examination to be kept, and a copy delivered to the Assignee; postponement may be granted for cause shown.

In case of subsequent arrest, debtor to be discharged on producing previous discharge, but imprisonment under this Act not to be interfered with.

Section 128. In Quebec, judgment may be inscribed for revision as from a final judgment of the Superior Court. In Ontario, appeal shall lie to the Superior Courts of Common Law or the Court of Chancery, in New Brunswick, Nova Scotia, British Columbia, and Prince Edward Island, to the Supreme Court; in Manitoba, to the Court of Queen's Bench, or to any Judge of the said Courts respectively. Any appeal to a single Judge may be referred to a full Court. Proceedings must be adopted, and security given within eight days. If appeal is not proceeded with, record to be returned to the Court below, and costs awarded.

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Section 135. Transfer of debt made in contemplation of insolvency to be void as regards estate of insolvent, but purchaser may rank instead of original creditor.

Section 136. Any person purchasing goods on credit, obtaining advances or inducing persons to become security, knowing himself or those for whom he acts to be insolvent, and with intent to defraud, and not paying debts so incurred, to be liable to imprisonment for not more than two years; provided he be charged with such fraud, and found guilty thereof.

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Thereupon officers of the Company shall exhibit the books thereof to the Assignee, and give all required information; refusal to be contempt of Court.

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Meeting of creditors may be called as ordered by the Judge, at which the affairs of the Company may by resolution be ordered to be wound up.

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